

WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

October 9, 2002

EX PARTE

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Verizon Telephone Companies Section 63.71
Application to Discontinue Expanded Interconnection
Service Through Physical Collocation, WC Docket No. 02-
237

Dear Ms. Dortch:

Verizon's application for authority to discontinue its provision of expanded interconnection to interstate special access and switched transport services must be denied. That application is based on the misconception that Verizon may lawfully require existing interstate physical collocation customers to purchase new cross-connects and support services under state tariffs. As the Commission has recently reiterated, section 203 of the Communications Act mandates that common carriers maintain federal tariffs for all interstate service offerings.¹

Verizon and SBC filed reply comments in which they purported to answer the numerous objections raised by Verizon's customers in this proceeding. In fact, those replies aptly illustrate the inconsistencies and incoherence of Verizon's application.

Both Verizon and SBC claim that Verizon has no obligation under law or the Commission's rules to offer, in its federal tariffs, physical collocation for expanded interconnection to interstate special access and switched transport services.² This is utterly false. In voluntarily offering physical collocation for expanded interconnection to interstate services, Verizon made itself subject to the Commission's section 201 jurisdiction, and thereby incurred

¹ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, *Order on Reconsideration* (rel. September 4, 2002), ¶ 9.

² See, e.g., Reply Comments of Verizon at 19; see also Reply Comments of SBC Communications Inc. at 2-3.

a series of legal and regulatory obligations. Indeed, Verizon has implicitly acknowledged those obligations by seeking discontinuance authority pursuant to section 214.

Under section 214 and rules promulgated there under by the Commission, common carrier offerings such as Verizon's may not be discontinued, reduced, or impaired unless the Commission finds that such action is consistent with the public interest, convenience and necessity. Verizon has failed to provide any basis upon which the Commission could conclude that the actual discontinuance of physical collocation for customers with pre-existing collocation nodes, is consistent with the public interest. Nor has Verizon provided any precedent for the proposition that a common carrier can lawfully require interstate customers to purchase cross-connects and supporting services pursuant to state tariffs. For these reasons alone, the Commission must dismiss Verizon's application.

Verizon continues to insist that the elimination of its federal tariff for physical collocation is necessary to prevent "tariff shopping" and arbitrage.³ At the same time, and without any awareness of its inconsistency, Verizon also asserts that its interstate physical collocation customers will actually save money by being forced to purchase from state tariffs.⁴ In other words, according to Verizon, its customers are incompetent arbitrageurs who have irrationally chosen to purchase from the wrong tariff. On this view, Verizon's decision to eliminate its federal tariff is an act of charity that will harm no one except Verizon's shareholders. SBC does not believe this claim, and neither should the Commission.

According to SBC, it is clear that the fundamental purpose underlying Verizon's application is the prevention of arbitrage.⁵ SBC further credits Verizon for being "absolutely correct, moreover, that [differences between state and federal tariffs for physical collocation] have, in fact, encouraged carriers to tariff shop and to purchase physical collocation from the jurisdiction *with the most favorable rates, terms, and conditions.*"⁶ Thus, SBC argues that Verizon is justified in eliminating its federal tariff in order to force customers to purchase physical collocation in the jurisdiction that has the least favorable rates, terms, and conditions. Whatever the merits of this argument

³ See, e.g. Reply Comments of Verizon at 25.

⁴ *Id.* at 7.

⁵ Reply Comments of SBC Communications Inc. at 1.

⁶ *Id.* at 1-2 (emphasis added).

from a public policy perspective,⁷ it is plainly at odds with Verizon's claim that customers will incur lower costs under its scheme.

The Commission has found that Verizon's provision of physical collocation, including all supporting services, for expanded interconnection to interstate services is itself an interstate service that falls within the Commission's jurisdiction. It is one thing for Verizon to discontinue that offering with respect to physical collocation arrangements that have not yet been ordered or established. It is quite another for Verizon to propose the discontinuance of that service for customers who have already ordered or established collocation arrangements. The Commission cannot rely on Verizon's unlawful proposal that its obligations to these interstate customers will be satisfied by rates, terms, and conditions found in state tariffs, to support a finding that the proposed discontinuance is consistent with the public interest. The Commission must reject Verizon's application.

Sincerely,

Henry G. Hultquist
Senior Attorney
202.736.6485

Cc: Jennifer McKee

⁷ It is hard to believe that any legitimate public policy objective is advanced by allowing a dominant carrier to force existing customers to purchase a service on less favorable rates, terms, and conditions than have previously applied to that service.